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30 SEP 2003

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In re Application of:  
ALEXANDROV et al. :  
Application No.: 09/869,181 : DECISION ON  
PCT Application No.: PCT/UA00/00035 :  
Int. Filing Date: 05 October 2000 : RENEWED PETITION UNDER  
Atty. Docket No.:15500.2002 :  
Priority Date: 22 October 1999 : 37 CFR 1.47(a)  
For: MOORING FACILITY FOR TETHERED  
GAS BALLOON :  
:

This is a decision in response to applicant's renewed petition under 37 CFR 1.47(a) filed on 17 January 2003.

**BACKGROUND**

On 05 October 2000, applicants filed international application PCT/UA00/00035, which designates the U.S. and claims a priority date of 22 October 1999. Accordingly the 20-month deadline for entry into the U.S. national stage expired at midnight on 22 June 2001.

On 21 June 2001, applicant filed in the United States Patent and Trademark Office (USPTO) a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite U.S. Basic national fee, a declaration signed by four of the five applicant/inventors named in PCT/UA00/00035, and a petition under 37 CFR 1.47(a) requesting acceptance of the application without the signature of applicant Vladimir Valentinovich Buzov

This petition was dismissed, without prejudice, by a decision dated 21 November 2002. Applicants filed this renewed petition on 17 January 2003.

**DISCUSSION**

A petition pursuant to 37 CFR 1.47(a) to accept the application without the signature of one of the joint inventors must include: 1) an oath or declaration signed by all available joint inventors on their own behalf and on behalf of the nonsigning inventor; 2) proof that the nonsigning inventor refuses to join in an application for patent or cannot be found or reached after diligent effort; 3) the petition fee; and 4) the last known address of the nonsigning

inventor.

Petitioners have previously satisfied items (1) and (3).

With regard to item (4), the renewed petition does indicate inventor Buzov's last known address and it is noted that the original petition did, in fact, have this information therein.

With regard to item (2), the renewed petition does include sufficient proof that a bona fide attempt was made to present a copy of the application papers to the nonsigning inventor.

MPEP 409.03(d) states:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).*

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient . . . Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. (emphasis added)

The renewed petition contains the declarations of two of the inventors, Zozulya Vladimir Leonidovich and Alexadrov Sergi Nikolaevich. Each declarant avers that they were with the non-signing inventor, Mr. Buzov in May, 2001 "when he renounced all rights to inventorship and property rights in this application." Further, each declarant avers that "(a)t that time, Mr. Buzov stated that he would refuse to sign any additional documents in connection with the filing of (this application) or any other patent application based on the priority Ukraine patent application No. 99105787."

The application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). The declarations of inventors Zozulya Vladimir Leonidovich and Alexadrov Sergi Nikolaevich are sufficient to establish under 37 CFR 1.47(a) that Mr. Buzov has "expressly stated that the application papers should not be sent" as required in MPEP 409.03.

### **CONCLUSION**

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

This Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given an international filing date of 05 October 2000 under 35 U.S.C. 363 and a date of 21 June 2001 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.



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